

and children, as innocent as the wife and children of any other individual in the State, shall be made to suffer from deprivation and want, in addition to all the disgrace the law can inflict upon the offences of that husband, over whom they had no control, with whose actions, perhaps, they had no sympathy, and with regard to whose conduct, perhaps, they were utterly opposed to it; in short, to sum it all up, in regard to whose actions, they were just as innocent of any offence, either against the law of God or the law of man, as any other children or wife in the district. I say, sir, that my vote shall not sanction such a doctrine.

Mr. SANDS. I think I fully comprehend the views of the gentleman from Baltimore city, the chairman of the committee, (Mr. Stirling,) and I think I fully comprehend the meaning of this 2d clause of the 3d section of the 3d article of the Constitution of the United States.

"Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attained."

In the first place, what is treason? what is the nature of the crime? It is abjuring the government to which allegiance is owed, and it is of course abandoning all right to the protection of that government. All governments are founded upon these primary ideas; allegiance and protection, looking at the matter purely as a matter of law, independent of all party considerations, these two ideas lie at the bottom of all government, allegiance and protection. The one rests upon the other, and can no more exist without it than a house can stand without foundation on the air. That is plain law.

Now what is meant by this language specifically used in this article? "No attainder of treason shall work," i.e., of necessity, "corruption of blood," so as to cut off innocent parties, the innocent wife and the innocent child. That is the Constitution of the United States, and that is precisely what I understand the gentleman from Baltimore City, (Mr. Stirling,) to desire should be the Constitution of Maryland; that no attainder of treason shall, of necessity, work corruption of blood; because that is the legal construction of this term "work," that that shall of necessity be the consequence of attainder; except during the life of the person attained. It shall work it through that life; but it shall not work corruption of blood, of necessity; that is, if a party is convicted of the crime of treason, it shall not, of necessity, follow that his innocent wife and children shall be deprived of the property which was his.

I then put the other case. Suppose these children, that may be grown sons, hardy men, capable of doing a variety of things

in furtherance of the treason. Suppose you say the contrary, that no matter what may be the circumstances, the property shall go to the children. Is such a doctrine as that to be engrafted upon the Constitution of Maryland?

Mr. MILLER. Are not those very sons themselves subject to conviction of treason, and forfeiture of their estate? This provision can only strike at the wife and babes, who know nothing of treason, and have not aided it.

Mr. SANDS resumed: You must find that son before you can try him. You remember Mrs. Glass's famous receipt for cooking a hare. "First, catch the hare." You must catch that son first; before you can try him. He may be off on the very enterprise in which his father lost his life. It may be impossible to catch him; or, if he is caught, the government may not be in condition to procure the sort of evidence that will convict him, although they may be morally certain that he is a traitor. Will the gentleman have the law stand thus, that in a case like that, if the father is guilty—

Mr. CLARKE. Will the gentleman allow me one question? I believe he is State's Attorney for Howard County. I ask him, if he had no evidence upon which to convict a party, would he, as State's Attorney, ask a jury to convict him upon moral certainty? That surely is not the criminal law of our State.

Mr. SANDS. No, sir, I do not. I ask for conviction in no case unless there is evidence.

Mr. CLARKE. The gentleman said that if there was no evidence, if the government had none sufficient to convict, still, if there was a moral certainty that the son was guilty, he must suffer the loss of the estate.

Mr. SANDS. The gentleman accused me the other day of being like a young colt. I will not retort the accusation; but I must say, when he makes a point he sticks to it with great pertinacity.

Mr. CLARKE. I so understood the gentleman.

Mr. SANDS resumed: Will the gentleman please to understand me now to say that when a party is indicted before a jury, I never asked them to convict him unless I believed him guilty. I never did that. It is not my practice. Will the gentleman please to understand me further to say that in making law for the safety and peace of the State, I will never agree to make the law so that if you cannot absolutely catch and convict the traitorous son, that son shall have the right to come in and claim under the father. I say that he may come to the Legislature as parties may go to Congress, and say, "I am innocent and here are my proofs; consider my case and give me the benefit of what was my traitorous sire's." And I say, also, that if I were a member of the Legislature, and such